

CHAPTER 08

ADOPTION

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08.01 INTRODUCTION

- A. Adoption is not an acceptable case plan unless the child's Tribe concurs with termination of parental rights and adoption.
- B. This chapter applies to children defined as "Indian Child" under the federal Indian Child Welfare Act (ICWA), 25 USC 1901, et. seq. If the child does not fall within this definition, see Chapter 11. The requirements of the federal **Adoption and Safe Families Act** (ASFA), [42 USC 629 – 629b and 42 USC 671a] do not apply to children meeting the definition of federally recognized Indian child.
- C. Adoption is a permanent plan for a child who is unable to live with the child's birth parents. Legally, other parents are substituted for the birth parents and given the full legal rights of birth parents.
- D. For Indian children, when adoption is the permanent plan, Children's Administration (CA) staff will make every effort to continue the child's ties to the child's Tribe.
- E. Adoption is possible once parental rights of both parents have been voluntarily or involuntarily terminated under the laws of the state of Washington and ICWA or any other competent jurisdiction, such as another country, state, or a federally recognized Indian Tribe.
- F. In addition to the requirements of this manual, the service worker also follows the requirements of the CA *Case Services Policy Manual* and the CA *Practices and Procedures Guide*. If there is a conflict between chapter provisions, the social worker follows the provisions in the *Indian Child Welfare Manual*. For all children for whom adoption is being considered, the social worker must complete a *Declaration of Adoption Facilitator*, DSHS 09-765.

08.05 CHILD'S INDIAN STATUS

- A. The social worker follows the requirements of Chapter 3 of this manual regarding identification of a child's Indian status.

- B. The social worker documents a child's Indian status in the service record on a *Family Ancestry Chart*, DSHS 04-220(x), and the *Ethnic Identity Request Form*, DSHS 09-761.
- C. Before beginning an adoption process, the social worker must make all reasonable efforts to have the Indian child enrolled in the child's Tribe. If the child is not enrollable, the social worker must obtain confirmation of that status from the Tribe.

08.10 PARENTAL CONSENT TO ADOPTION

- A. The social worker does not accept a voluntary consent to relinquishment/termination or adoption of an Indian child until the service worker has followed the procedures in Chapter 6 of this manual.
- B. Voluntary consents to relinquishment/termination or adoption are not valid unless signed by the parent before a tribal or juvenile court/superior court judge more than 10 days after a child's birth and unless approved by the judge.

08.15 PLACEMENT FOR ADOPTION BY THE CHILD'S TRIBE

- A. For all children in the custody of the department prior to the termination of parental rights, the CA social worker must have previously actively solicited the child's Tribe's involvement in determining the placement for the child. In most instances, the child's placement prior to the termination of parental rights will be the child's adoptive placement. The social worker must notify the child's Tribe in writing of the change in status of the child and must ask the Tribe to verify approval of the placement plan.
- B. The social worker contacts the Tribe to request identification of an appropriate placement resource when the social worker has established a plan to place the child in a different home after termination and when the worker was unable to do adoptive placement planning prior to termination of parental rights.

1. The social worker makes a written adoption placement referral to the social services program of a child's Tribe in conformity with confidentiality requirements of chapter 04. The referral includes the following information:
 - a. Comprehensive background information on the child's social and psychological development, using, at minimum, the current Individual Service and Safety Plan (ISSP) and the *Child's Medical and Family Background Report*, DSHS form 13-041;
 - b. Information on all prior placements;
 - c. Information about the extent of the child's relationship with parents, siblings, extended family members, and other significant person's in the child's life;
 - d. Information concerning the interest, if any, of the child's foster parents and relatives in adopting the child;
 - e. Information on the current or planned custody and placement of siblings;
 - f. Information about any other ethnic heritage of the child in addition to the child's Indian heritage; and
 - g. Other factors that might affect the placement decision.
2. If the child's Tribe undertakes the task of identifying a placement and does not find a suitable placement for a child within 60 days, the social worker, in consultation with the Tribe, finds a suitable placement.

3. The social worker documents the placement referral and tribal response in the service record and proceeds with the adoptive placement in accordance with this chapter if the social services program of the child's Tribe does not:
 - a. Want to be involved in the adoption placement planning process; or
 - b. Respond within 30 days following receipt of an adoption placement referral.
 4. The social worker consults with LICWAC if the Tribe's social services program does not become involved in adoptive placement planning while continuing efforts to engage the child's Tribe. See Chapter 10.
- C. In all cases, upon request, the social worker assists a child's Tribe to identify a suitable adoptive placement for the child.

08.20 PLACEMENT PREFERENCES

Federally recognized Indian children are exempt from the requirements of the Multi-Ethnic Placement Act (MEPA) and the Inter-Ethnic Adoption Provisions (IEAP), 42 USC 671a. It is imperative that CA social workers exert **active and diligent efforts** to immediately place recognized Indian children within the following placement preferences, without discriminating against any potential placement on the basis of race, color, or national origin. See the *CA Operations Manual*, chapter 4000, section 4510, for MEPA/IEAP requirements.

- A. In any adoptive placement (i. e., permanent placement for adoption) of an Indian child, the social worker places the child in accordance with the order of preference established by the child's Tribe. The social worker contacts the social services program of the child's Tribe for information about the Tribe's order of preference.
- B. If the child's Tribe has not established an order of preference, the social worker places the child in the following order of preference:

1. A member of the child's extended family. See Chapter 14 for the definition of "extended family."
 2. Other members of the child's Tribe.
 3. Other Indian families of similar Indian heritage.
 4. Other Indian families. See section 08.15, above, regarding Indian status of adoptive families.
- C. When exploring the suitability of families within the preference categories, the social worker informs families about the adoption assistance program and eligibility requirements for the program. The social worker assists families who may be eligible for the program to apply for adoption support.
- D. When applying the placement preferences in paragraph B, the social worker:
1. Uses the social and cultural standards prevailing in a child's tribal or Indian community; and
 2. Gives priority to suitable adoptive families within a tribal or Indian community, with families within a child's tribal or Indian community having the first preference.
- E. The social worker, while applying the placement preferences listed above, and in collaboration with the child's Tribe, must give consideration to:
1. Placement with a suitable adoptive family living in the child's tribal or Indian community;
 2. Placement in a manner assuring the maximum opportunity for the child to maintain and nourish a relationship with the child's Tribe;

3. Whenever more than one sibling is to be placed, placement of siblings together or in close proximity, unless the placement would cause serious physical or emotional harm to one or more of the children; and
4. Placement in a manner assuring maximum opportunity for maintenance of a sibling relationship, and/or
5. Placement with an adoptive family that previously adopted one or more of the child's siblings.

08.25 DIRECT PLACEMENT BY CA OR LICENSED CHILD PLACING AGENCY – DILIGENT SEARCH FOR PLACEMENT

- A. The social worker diligently searches for a suitable placement within the order of preference before considering a non-preferred placement when a child's Tribe:
 1. Notifies the service worker that the Tribe will not undertake identification of an adoptive placement; or
 2. Has been unable to identify a suitable placement for the child or
 3. Has not responded within 30 days following receipt of an adoptive placement referral. See section 08.15.
- B. The social worker documents telephone and/or written contacts with the child's Tribe in the child's service record and CAMIS.
- C. At minimum, a diligent search involves contacting the following resources in the order listed:
 1. The child's Tribe;
 2. Relatives of the child or of the child's family;
 3. The Local Indian Child Welfare Advisory Committee (LICWAC);

4. Off-reservation Indian organizations;
 5. The Bureau of Indian Affairs (BIA);
 6. DSHS, licensed private child placing, and tribal adoptive family registers;
 7. Nationally known Indian placement programs, such as Three Feathers, Ina Maka, and Rainbow agencies; and
 8. Other national placement programs/exchanges.
- D. As part of a diligent search for placement, the social worker also provides written notification to the child's extended family members as required in Chapter 07, using *Notice to Extended Family Members*, DSHS 09-772.
- E. The social worker keeps the child's Tribe informed of progress in seeking adoption placement for the child and pursues any placement recommendations offered by the Tribe.

08.30 PLACEMENT OUTSIDE OF PREFERENCE CATEGORIES PROHIBITED

The social worker may place a **federally recognized Indian child** outside of the preference categories specified in this chapter only when at least one of the following circumstances exists:

- A. The child's Tribe concurs that the best interests of the child require placement with a non-Indian family or in another setting not within the preference categories. See Chapter 10 for LICWAC procedures when the child's Tribe is not the primary resource for consultation and case plan development.
- B. The child has extraordinary physical or emotional needs, diagnosed by a qualified expert, that possible placements identified within the preference categories cannot meet. The social worker can implement the plan only with the documented expressed concurrence and recommendation of the child's Tribe. See chapter 14 for the definition of "qualified expert."

1. The social worker provides the Tribe with a written statement that explains why the possible placements identified within the preference categories cannot meet the child's needs.
 2. The social worker places a copy of the written statement in the ICW section of the child's service record.
 3. The social worker either receives consent from the Tribe or, if the Tribe is not the primary resource for consultation and case plan development, the LICWAC, to place outside of the placement preference categories.
- C. The social worker has undertaken a **diligent search** for placement within the preference categories for a period of 180 days after the date that the child became available for adoptive placement and found no suitable placement within the preference categories.
1. In determining the suitability of a family, the social worker evaluates the family in accordance with the social, economic, and cultural standards:
 - a. Prevailing in the Indian community in which the child's parent(s) extended family members reside; or
 - b. With which the parent(s) or extended family members maintain social or cultural ties.
 2. The social worker bases a determination that suitable families within the preference categories do or do not exist on tribal community standards, which are not necessarily state standards.
 3. The social worker either receives consent from the Tribe or, if the Tribe is not the primary resource for consultation and case plan development, the LICWAC to place outside of the placement preference categories.

08.35 PARENTAL AND CHILD ADOPTION PLACEMENT PREFERENCES

- A. If appropriate under the circumstances of the case, the social worker takes a child's preference into consideration in determining placement within the placement categories when the child is of sufficient age and maturity and able to express a knowledgeable and reasoned opinion about the child's adoptive placement.
- B. The social worker considers the placement preference of the child's parent(s) in making a placement within the preference categories.
- C. The social worker considers the placement preference of the parent or child or gives weight to a parent's request for anonymity only if not contrary to the best interests of the child, the child's tribal relationship, medical history, or contrary to the policies and procedures of this manual.

08.40 INDIAN STATUS OF ADOPTIVE FAMILIES

- A. The social worker requests that all adoptive applicants complete a copy of the *Verification of Indian Status*, DSHS 15-128. If an applicant claims status as an Indian, the social worker requests that the applicant provide documentation.
- B. The social worker considers an applicant Indian if the applicant provides evidence, for at least one of the prospective adoptive parents, of membership or eligibility for membership in a federally or non-federally recognized Indian Tribe, including Eskimo, Aleut, other Alaska Native, or Canadian First Nations. See Chapter 12 for a list of federally recognized Indian Tribes. See Chapter 11 for procedures regarding Canadian First Nations and Recognized Indian Children.

08.45 FOSTER PARENT ADOPTIONS

- A. The child's social worker ensures the procedures in Chapter 07 have been followed in the selection of a foster care placement for a child.

- B. As part of the process to approve the foster parent adoption of an Indian child, the social worker documents in the case file and for the child's Tribe:
1. Whether the department has followed the procedures regarding tribal review and approval of placement, as set forth in Chapter 07;
 2. Whether the foster family is within the placement preferences in section 8.20;
 3. The tribal affiliation, if any, of the foster parents and the extent to which the foster parents are active in tribal and Indian cultural activities;
 4. The foster family's past performance and future commitment in exposing the child to the child's Indian tribal and cultural heritage;
 5. The foster parent's care of the child to date, the foster parent's commitment to incorporating the child into the family permanently, and the child's attachment to the foster family.

08.50 TRIBAL REVIEW AND APPROVAL OF PLACEMENT

- A. The social worker does not make an adoptive placement of an Indian child prior to review and approval of the placement by the child's tribal social services program or the LICWAC, if the Tribe is unavailable.
- B. The social worker provides the child's Tribe, or LICWAC if the Tribe is unavailable, on a confidential basis, all adoptive home studies of homes under consideration for placement of the child. Home studies will identify whether the adoptive home applicant is affiliated with a Tribe and, if so, which Tribe. The social worker needs to obtain a release of information from the prospective adoptive parents to allow full disclosure of the adoptive home study to the Tribe if the child's Tribe has not intervened as a party to the case; and

08.55 INFORMATION TO PROSPECTIVE ADOPTIVE PARENTS

- A. Prior to placing an Indian child in an adoptive home, the social worker informs the prospective adoptive parents, using *Information to Prospective Adoptive Parent of an Indian Child* DSHS 09-778, of:
 - 1. The special legal requirements applicable to adoption of an Indian child;
 - 2. The possibility of pursuing the adoption through a tribal court proceeding; and
 - 3. The possibility of receiving assistance through the Adoption Support Program.
- B. The social worker gives the original *Information to Prospective Adoptive Parent of an Indian Child*, DSHS 09-778, to the adoptive parents and places a copy in the ICW section of the service file.
- C. The social worker completes the *Child's Medical and Family Background Report*, DSHS 13-041, and provides the original to the prospective adoptive parents for signature. See the *CA Practices and Procedures Guide*, chapter 4000, section 4540, for requirements. The worker must complete this form in accordance with the state disclosure laws that are explained on the form. The worker retains a copy of the signed form in the ICW section of the child's service file.
- D. The department does not consider a placement an adoptive placement until the adoptive parents sign both the DSHS 09-778 and the DSHS 13-041.

8.60 RECORD OF PLACEMENT DETERMINATION

- A. For each adoptive placement determination, the social worker documents in the child's Service Episode Record (SER):
 - 1. The basis for each adoptive placement decision.

2. If siblings are not placed together, the reasons justifying sibling separation and the steps taken to maintain the sibling relationship following placement.
 3. Efforts made to comply with the placement preference requirements.
 4. The homes contacted in the course of compliance efforts, including the names and addresses of extended family members and of tribally approved homes. See chapter 14 for the definition of "extended family member."
- B. The social worker provides the child's Tribe with a copy of the service record documentation for any adoptive placement prior to making the placement.

08.65 ASSESSMENT OF ADOPTIVE PLACEMENT

- A. The social worker conducts an assessment of the placement within 30 days after placing an Indian child in the home of prospective adoptive parents. After the initial assessment, the social worker conducts an assessment at least every 90 days until termination of the placement or entry of the final decree of adoption.
- B. The social worker notifies the child's Tribe of the assessment. If the child's Tribe has declared itself to be unavailable or has not responded to verbal and written notices, the social worker notifies the LICWAC, while continuing efforts to engage the child's Tribe. See Chapter 10 for LICWAC procedures.
- C. The social worker must offer the Indian child over the age of 12 and the child's Tribe the opportunity to participate in the assessment. The social worker must allow, upon request, the Tribe or LICWAC, if conditions in paragraph B apply, access to all files and documents pertaining to the child's placement.
- D. At minimum, the assessment includes:

1. Evaluation of the suitability of the adoptive home placement;
 2. The child's adjustment to the adoptive home;
 3. The adoptive family's adjustment to the child; and
 4. The extent to which the adoptive family has carried out the conditions, if any, of the placement; e.g., assisting the child to maintain relationships with siblings, extended family members, and the child's Tribe.
- E. The social worker involves a qualified expert in the review. See Chapter 14 for the definition of "qualified expert."

08.70 RECORDS FOLLOWING PLACEMENT

The social worker quarterly provides the child's Tribe with reports and records prepared after an adoptive placement and before a final decree of adoption. See Chapter 04 regarding confidentiality. These reports/records contain descriptions and evaluations of:

- A. The child's adjustment to the adoptive home;
- B. The adoptive family's adjustment to the child;
- C. The suitability of the placement; and
- D. The extent to which the adoptive family has carried out the conditions, if any, of the placement; e.g., assisting the child to maintain relationships with siblings, the natural family, and the child's Tribe.

08.75 SERVICES FOLLOWING PLACEMENT

When placing an Indian child for adoption, the social worker complies with the following requirements in cooperation with the social services program of the child's Tribe:

- A. When the department places an Indian child eligible for membership in an Indian Tribe for adoption, the social worker seeks to secure tribal membership for the child prior to the entry of a final decree of adoption.

- B. When the department places an Indian child for adoption, until entry of a final decree of adoption, the social worker, in cooperation with the child's Tribe, evaluates the overall suitability of the placement and monitors the placement to assure:
1. The child is not abused or neglected;
 2. The child's special needs are addressed;
 3. The child's relationship with the child's siblings and, if appropriate, other members of the child's birth extended family, is encouraged;
 4. The child's relationship with the child's Tribe is promoted; and
 5. All other conditions and commitments of the placement are met.
- C. The social worker, in cooperation with the social services program of the child's Tribe, assists the child, the prospective adoptive parents and the child's natural parents to adjust emotionally and psychologically to the adoptive placement. As may be appropriate or necessary, this assistance includes:
1. Involving a qualified expert and other expertise as may be appropriate; and
 2. When the adoptive placement is non-Indian, involving a qualified expert in the placement of the Indian children to assist the child to deal with or overcome adjustment problems unique to non-Indian placements. See Chapter 14 for the definition of a "qualified expert."

- D. The social worker, in cooperation with the social services program of the child's Tribe, provides the prospective adoptive parents with information on the background and special needs, if any, of the child. Where necessary, the social worker instructs or arranges for instruction of the prospective adoptive parents in:
 - 1. How best to meet the child's needs; and
 - 2. How best to assist the child's adjustment to the adoptive placement.
- E. When the adoptive placement is non-Indian, the social worker arranges for a qualified expert to instruct the prospective adoptive parents regarding the special developmental and social problems common in such placements and how best to handle those problems.
- F. The social worker, in cooperation with the social services program of the child's Tribe, provides training to the prospective adoptive parents in the required skills when:
 - 1. An Indian child is the first child of the prospective adoptive parents; or
 - 2. The prospective adoptive parents need assistance in promoting the child's affiliation with the child's cultural heritage or meeting the child's special needs.

**08.80 ADOPTION ASSISTANCE TO FAMILIES THAT ADOPT
THROUGH STATE OR TRIBAL COURT**

- A. CA provides adoption assistance to children adopted from foster care or relative placements if the children otherwise meet qualifications outlined in 42 U.S.C. 673, RCW 74.13.100 through RCW 74.13.150, chapter 26.33 RCW, and applicable federal and state regulations. Adoption assistance may, depending on the needs of the child, reimburse the family expenses incurred for adoption finalization and provide ongoing financial maintenance, medical assistance through Medicaid, and counseling costs.

- B. The *CA Case Services Policy Manual*, chapter 9000, outlines state policy for the Adoption Support Program.
- C. The *CA Practices and Procedures Guide*, chapter 5000, section 5700, describes procedures for accessing the Adoption Support Program and its services.

08.85 PRE-PLACEMENT AND POST-PLACEMENT REPORTS

- A. When a social worker prepares a pre-placement or post-placement report regarding the adoptive placement of an Indian child, the social worker invites the designee of the child's Tribe and, when possible, a qualified expert to participate in the preparation of the report. See chapter 14 for the definition of "qualified expert". If the worker prepared the report before learning the identity of the Tribe, the social worker, upon identifying the Tribe, will involve the Tribe in any reviews of the report and preparation of subsequent reports and decision-making.
- B. The social worker prepares the pre-placement report in accordance with the *CA Practices and Procedures Guide*, chapter 5000, section 5330, and the post-placement report in accordance with the *Practices and Procedures Guide*, chapter 5000, section 5380. The reports must also:
 - 1. Describe the role of the child's Tribe in preparing the report;
 - 2. State the Tribe's recommendations or conclusions and the basis for the recommendations and conclusions;
 - 3. Include an evaluation of the suitability of the adoptive placement; and
 - 4. Inform the court if there is reason to believe the adoptive petitioners have improperly removed custody of the child from the child's parents or have improperly retained custody of the child following a visit or other temporary relinquishment of parental custody.

- C. The social worker provides a copy of the report to the child's Tribe. If the child's Tribe has not intervened as a party in the adoption proceeding, the social worker obtains a release of information from the adoptive parents or a court order authorizing the release of information prior to providing the report to the child's Tribe.

08.90 PARENTAL WITHDRAWAL OF CONSENT TO RELINQUISHMENT, TERMINATION, OR ADOPTION

The parent(s) of an Indian child may withdraw consent to relinquishment/termination or adoption at any time before entry of the adoption decree. If a parent of an Indian child withdraws a voluntary consent prior to entry of the adoption decree, the service worker follows the requirements of Chapter 06, section 06.858.

08.95 AGENCY CONSENT TO ADOPTION

- A. When CA or a licensed or certified child placing agency has permanent custody of an Indian child following termination of parental rights, the social worker actively involves the child's Tribe in any deliberations and decisions about whether the agency should consent to the child's adoption.
- B. If the Tribe consents to the adoption, the social worker includes in the file the Tribe's written consent to the adoption.
- C. If the Tribe objects to the case plan, the social worker, with the involvement of the social services program of the child's Tribe, conducts a detailed review of the case plan.
 - 1. Following the case plan review, if the social worker and the worker's supervisor determine that the agency should consent to the adoption despite the Tribe's objection, the social worker documents in the service record the basis for such determination.

2. The social worker includes in the file the Tribe's written notice of objection to the adoption and recommendation for case planning and placement. If the Tribe has objected verbally, the social worker must request a written notification from the Tribe. The social worker and the worker's supervisor then refer the case for consideration to the Regional Administrator.
3. The department may not consent to adoption of the child over the objection of the child's Tribe unless the case has been reviewed through the impasse procedures described in Chapter 01, section 1.50.

08.100 CONTENT OF FINAL ADOPTION DECREE – TRANSMITTAL OF ADOPTION INFORMATION TO SECRETARY OF THE INTERIOR – BUREAU OF INDIAN AFFAIRS

- A. In a Superior Court proceeding involving the adoption of an Indian child who is in the permanent custody of CA or a child placing agency, the social worker completes *Superior Court Adoption Information For Indian Child*, DSHS 09-768.
- B. The social worker files the completed information form with the court and requests that the court include information from the form in the adoption decree wherever possible. The social worker puts a copy of the completed information form in the service file.
- C. The social worker requests the court to send a copy of the final adoption decree and a copy of the information form to the Secretary of the Interior at the following address:

Office of Tribal Services
Division of Social Services
Bureau of Indian Affairs
1849 C Street N.W. MS-4660-MIV
Washington, D.C. 20240

**08.105 CHILDREN'S ADMINISTRATION PAYMENT OF TRIBAL
ADOPTION PLACEMENT COSTS**

The social worker contacts the Adoption Program Manager for information about CA payment of expenses related to tribal court adoption proceedings.

**08.110 RELEASE OF BIRTH RECORD INFORMATION TO THE
CHILD'S TRIBE**

- A. Prior to the entry of a final decree of adoption, the social worker provides the child's Tribe with a copy of the Indian child's original birth certificate.
- B. If the child's Tribe has intervened as a party in the adoption proceeding, the social worker provides the Tribe a copy of the final decree of adoption, a copy of the child's amended birth certificate, and other records of the proceeding as the Tribe may request.
- C. If the child's Tribe has not intervened as a party in the adoption proceeding, the social worker obtains a court order authorizing the release of copies of such documents and records prior to providing the copies to the child's Tribe.

**08.115 RELEASE OF ADOPTION RECORDS TO ADOPTED INDIAN
CHILDREN**

- A. An adopted Indian person 18 years of age or older may petition the court that entered the final decree of adoption for information regarding the adoptee's Tribal affiliation. The adoptee may also obtain other information, such as the names and addresses of the adoptee's birth parents, as may be necessary to protect rights resulting from the child's tribal relationship. The court may order DSHS and child placing agencies to release to the adoptee information contained in the adoption records maintained by DSHS and child placing agencies.

- B. On written request to the CA Adoption Program Manager or a child placing agency by an adopted person age 18 or older having reason to believe that the adoptee is Indian, an agency representative conducts a search of the agency adoption records. If the records verify the person is adopted, the agency representative:
 - 1. Tells the person which court entered the final decree of adoption;
 - 2. Advises the person of the potential right to obtain adoption record information; and
 - 3. Provides copies of information contained in the archived record that indicate the child's Indian status and tribal affiliation. Without a court order, however, the agency may not provide the names or other identifying information about the birth parents.
- C. The CA Adoption Program Manager responds to all requests to CA for archived adoption file information.
- D. The Adoption Program Manager refers the person to the Bureau of Indian Affairs in Washington, D. C.

08.120 ARCHIVING OF ADOPTION FILE

Upon the entry of a final decree of adoption, the social worker records the finalization of the adoption in CAMIS, ends the placement episode, and prepares the child's files for archiving. The *CA Operations Manual*, chapter 13000, section 13930 contains instructions for the archiving of adoption records

08.125 PETITION TO VACATE ADOPTION DECREE

- A. If a parent, within one year, petitions the court under ICWA to vacate an adoption decree due to alleged fraud or duress in obtaining the consent to relinquishment/termination or adoption, the social worker:

1. In cooperation with the social services program of the child's Tribe, examines the circumstances surrounding the consent;
 2. Where the child's Tribe was involved in obtaining the consent, consults with the Tribe and seeks to obtain the Tribe's concurrence in any information or testimony the social worker intends to give to the court;
 3. When the Tribe provides the social worker with a written statement regarding the consent to adoption, submits the Tribe's statement to the court;
 4. Notifies the child's Tribe of all scheduled hearings on the petition and sends a copy of the petition to the Tribe; and
 5. Notifies the child's Tribe and the non-petitioning parent of the child, or the child's prior Indian custodian, if the court grants the petition.
- B. If the court orders the child's return to the custody of the birth parent(s), the social worker, in cooperation with the social services program of the child's Tribe, assists the child to make as successful a transition as possible to the parent(s). Assistance includes:
1. Helping the child adjust emotionally and psychologically to the change in placement;
 2. Helping the parent(s) to understand and effectively meet the child's needs;
 3. Helping the adoptive family adjust to the loss of the child and in assisting the child to make a successful transition to the birth parent(s); and
 4. Using a qualified expert to help the parent(s), child, and adoptive family, if necessary. See Chapter 14 for the definition of "qualified expert."

08.130 TERMINATION OF ADOPTION

When CA or a child placing agency is involved in a failed adoption, the assigned social worker for the department or child placing agency, as applicable, completes the following requirements.

- A. The social worker notifies the child's Tribe and the child's birth parents or prior Indian custodian of what has occurred, using *Notice of Termination or Vacating Adoption Decree*, DSHS 09-773.
 - 1. The social worker sends the notice within five working days from the date of entry of any court order terminating parental rights of the adoptive parents or vacating or setting aside an adoption.
 - 2. The notice contains information about the right of the child's parent/Indian custodian to petition the court for return of custody of the child.
- B. The social worker does not oppose the return of the child to the custody of the birth parent(s) or prior Indian custodian in the absence of a thorough investigation into and evaluation of the suitability of the parent(s) or Indian custodian to reassume custody. The social worker:
 - 1. Completes the investigation within 90 days after the termination of the adoptive parents' parental rights or the set aside of the final decree of adoption; and
 - 2. Invites the child's Tribe and a qualified expert to participate in the investigation. See Chapter 14 for the definition of "qualified expert."

- C. The social worker develops an appropriate service plan in cooperation with the social services program of the child's Tribe if the social worker and the Tribe determine that remedial and rehabilitative programs designed to return custody of the child to the parent(s) or Indian custodian are in the child's best interests and are likely to result in successful reunification. The social worker develops the service plan with direct collaboration from the parent(s), the child if of sufficient age, and, when possible, a qualified expert.
- D. The social worker does not oppose the return of the child to the parent(s) or prior Indian custodian unless the plan proves unsuccessful or unless the return is likely to cause emotional or physical harm to the child.
- E. In cooperation with the social services program of the child's Tribe, the social worker assists the child to adjust emotionally and psychologically to the termination of the adoption and to any new placement. The social worker uses the services of a qualified expert to provide such assistance.
- F. If the social worker's supervisor determines it is not appropriate to follow the recommendations of the child's Tribe or the qualified expert to develop a plan to return the child to the parent(s)/Indian custodian, the social worker:
 - 1. Documents in the service record and in a written report the reasons for the recommendations and the reasons for the determination that it is not appropriate to follow the recommendations of the Tribe;
 - 2. Requests a written report and recommendations from the Tribe; and
 - 3. Forwards the reports to the Area Manager and Regional Administrator for review and to comply with impasse procedures. The social worker must not present a recommendation to the court contrary to that of the Tribe or its designee until the department completes impasse procedures. See chapter 01, section 01.50, for impasse procedures.

- G. When an adoptive placement ends, until such time, if any, as the child is returned to the custody of the birth parent(s) or Indian custodian, the social worker follows the requirements contained in chapters 6, 7 and 8 in making a foster care or adoptive placement for the child.